



DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 89

[Docket No. FAA-2019-1100; Amdt. No. 89-2]

RIN 2120-AL31

Enforcement Policy Regarding Operator Compliance Deadline for Remote Identification of Unmanned Aircraft

AGENCY: Federal Aviation Administration (FAA), U.S. Department of Transportation (DOT).

ACTION: Notification of enforcement policy.

SUMMARY: For noncompliance with the remote identification operating requirements applicable to unmanned aircraft, which occurs on or before March 16, 2024, the FAA will consider all circumstances, in particular, unanticipated issues with the available supply and excessive cost of remote identification broadcast modules and unanticipated delay in the FAA's approval of FAA-recognized identification areas, when exercising its discretion in determining whether to take enforcement action.

DATES: This policy is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Ben Walsh, Flight Technologies and Procedures Division, Federal Aviation Administration, 800 Independence Ave SW, Building 10A / 8th Floor Washington, DC 20591; telephone 1-844-FLY-MY-UA (1-844-359-6981); email: UAShelp@faa.gov.

SUPPLEMENTARY INFORMATION:

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Background

On January 15, 2021, the Remote Identification of Unmanned Aircraft final rule (RIN 2120-AL31) published in the Federal Register.¹ Unless otherwise authorized by the Administrator or as prescribed in 14 CFR 89.120, no person may operate an unmanned aircraft subject to the applicability in § 89.101 after September 16, 2023, outside the boundaries of an FAA-recognized identification area (FRIA) unless it is a standard remote identification unmanned aircraft or equipped with a remote identification broadcast module.² The application and approval process for FRIAs is set forth in 14 CFR 89 subpart C. The majority of the final rule became effective on April 21, 2021.³

In accordance with the final rule, standard remote identification unmanned aircraft and remote identification broadcast modules must be designed and produced to meet the requirements of Title 14 of the Code of Federal Regulations part 89 (14 CFR part 89). A person designing or producing a standard remote identification unmanned aircraft or remote identification broadcast module for operation in the United States must show that the unmanned aircraft or broadcast module meets the requirements of an FAA accepted means of compliance. A means of compliance describes the methods by which the person complies with the performance-based requirements for remote identification.

On September 12, 2022, the FAA published an Enforcement Policy indicating that the FAA would exercise its discretion in determining how to handle any apparent noncompliance

¹ *Remote Identification of Unmanned Aircraft* final rule, 86 FR 4390, January 15, 2021, available at <https://www.federalregister.gov/documents/2021/01/15/2020-28948/remote-identification-of-unmanned-aircraft>.

² 14 CFR 89.105

³ *Remote Identification of Unmanned Aircraft; Delay*, 86 FR 13629, March 10, 2021, available at <https://www.federalregister.gov/documents/2021/03/10/2021-04882/remote-identification-of-unmanned-aircraft-delay>.

with the manufacturing deadline set forth in the final rule, due to the delay in acceptance of the ASTM means of compliance.⁴

In recent months, the FAA has received significant public feedback regarding remote identification requirements, including multiple requests for an extension of the September 16, 2023, remote identification operational compliance date. Additionally, the FAA has received hundreds of inquiries through emails, phone calls, and in-person questions about the remote identification operational compliance date. Flight Standards District Offices alone are receiving over 10 emails a day related to remote identification requirements. The FAA UAS Support Center has received over 380 inquiries over the past 60 days. Their primary inquiry was about the compliance date and the inability to obtain remote identification modules. UAS operators within the Commercial Drone Alliance, the Association of Uncrewed Vehicle Systems International, multiple public safety agencies such as the Nebraska Department of Transportation and the Iowa Department of Transportation, as well as FAA Lead Participants in the BEYOND program, have all indicated that they are encountering significant difficulty obtaining remote identification broadcast modules, which would allow continued operation of existing unmanned aircraft instead of purchasing new standard remote identification unmanned aircraft. Those difficulties are primarily related to availability of broadcast modules, the shipping timelines for broadcast modules, and the cost of those modules. Data from the FAA Drone Zone as of August 28, 2023, shows that there are 261,143 operators flying with a remote pilot certificate under 14 CFR part 107 and 328,372 recreational flyers operating under the provisions of 49 U.S.C. 44809 who are not remote identification equipped. The FAA has also received feedback from operators, including numerous public safety agencies, about difficulties in obtaining firmware updates to

⁴ *Enforcement Policy Regarding Production Requirements for Standard Remote Identification Unmanned Aircraft*, 87 FR 55685, September 12, 2022, available at <https://www.federalregister.gov/documents/2022/09/12/2022-19644/enforcement-policy-regarding-production-requirements-for-standard-remote-identification-unmanned>.

some existing models of unmanned aircraft to activate standard remote identification capabilities and make them remote identification compliant.

As a separate matter, as of August 18, 2023, the FAA has approved 412 applications for FRIAs, with 1,206 yet to be reviewed. The FAA has endeavored to review these FRIA applications as quickly as possible but expects a large increase in applications as the mandatory compliance date approaches. This influx is expected to increase the application processing backlog and impair the ability of recreational operators to comply with the rule. The FAA anticipates that the supply of remote identification broadcast modules, resolution of firmware issues, and approval of FAA-recognized identification areas will increase in the next six months.

Statement of Policy

The FAA recognizes that it has yet to evaluate a majority of submitted applications for FAA-recognized identification areas. The FAA also recognizes the unanticipated issues that operators are facing related to the availability of remote identification broadcast modules. The FAA has continued to monitor this situation as long as possible before making a determination, but with less than a month remaining until the operational compliance date, the FAA acknowledges that for many operators, compliance with § 89.105 may prove difficult or impossible in the timeframe presented. While some operators, such as those who are using standard remote identification unmanned aircraft or those operating in FRIAs that have already been approved by the FAA, will be able to comply with the rule, the cumulative effect of the current state of the compliance issues reported to the FAA could otherwise cause a cessation of numerous UAS operations, which is not consistent with the FAA's intent for this rule or its statutory mandate to integrate UAS operations into the National Airspace System.

Accordingly, the FAA will exercise its discretion in determining how to handle any apparent noncompliance, including exercising discretion to not take enforcement action, if appropriate, for any noncompliance that occurs on or before March 16, 2024—the six-month

period following the compliance deadline for operators initially published in the Remote Identification of Unmanned Aircraft final rule, RIN 2120-AL31. The exercise of enforcement discretion herein creates no individual right of action and establishes no precedent for future determinations.

Issued in Washington, D.C. on September 12, 2023

Taneesha Dobyne Marshall,

Assistant Chief Counsel for Aviation Litigation,

Federal Aviation Administration.

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